

Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions Amendment Order 2021

Elizabeth the Second, by the Grace of God Queen of New Zealand and Her Other Realms and Territories, Head of the Commonwealth, Defender of the Faith:

To—

Her Honour Judge Coral Shaw, of Te Awamutu, former lawyer, District Court Judge, Employment Court Judge, and Judge of the United Nations Dispute Tribunal,

Ali'imuamua Sandra Alofivae, MNZM, of South Auckland, lawyer, former Families Commissioner, and Pacific community leader,

Dr Andrew Erueti, of Auckland, Associate Professor at the University of Auckland Law School,

Paul Gibson, of Wellington, disability adviser, advocate, and community leader, and former Human Rights (Disability Rights) Commissioner, and

Julia Anne Steenson, of Auckland, director and elected leader of Ngāti Whātua Ōrākei:

Greeting!

We, by this Order, amend the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions Order 2018 issued at Wellington on the 12th day of November 2018.

This Order is made—

- (a) under the authority of the Letters Patent of Her Majesty Queen Elizabeth the Second constituting the office of Governor-General of New Zealand, dated 28 October 1983;* and
- (b) under the authority of section 6 of the Inquiries Act 2013 and subject to the provisions of that Act; and
- (c) on the advice and with the consent of the Executive Council.

*SR 1983/225

**Royal Commission of Inquiry into Historical Abuse in
State Care and in the Care of Faith-based Institutions
Amendment Order 2021**

cl 1

1 Title

This Order is the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions Amendment Order 2021.

2 Commencement

This order comes into force on the 28th day after the date of its notification in the *Gazette*.

3 Principal order

This order amends the Royal Commission of Inquiry into Historical Abuse in State Care and in the Care of Faith-based Institutions Order 2018.

4 Preamble amended

- (1) In the Preamble, replace “Dr Andrew Erueti, of Auckland, lawyer and senior lecturer at the University of Auckland Law School,” with “Dr Andrew Erueti, of Auckland, Associate Professor at the University of Auckland Law School.”.
- (2) In the Preamble, replace “Julia Anne Steenson, of Whangamatā, lawyer, director and elected leader of Ngāti Whātua Ōrākei” with “Julia Anne Steenson, of Auckland, director and elected leader of Ngāti Whātua Ōrākei”.

5 Schedule amended

- (1) In the Schedule, revoke clause 10.1(b) and (c).
- (2) In the Schedule, replace clause 10.5 with:

10.5 During the relevant period, what lessons were learned and what changes were made to legislation, policy, rules, standards, and practices to prevent and respond to abuse in care.
- (3) In the Schedule, revoke clause 10.6.
- (4) In the Schedule, clause 10.7, delete “and rehabilitation”.
- (5) In the Schedule, after clause 15, insert:

Discretion

- 15A. In addition to the matters that are in scope, the inquiry may also, at its discretion,—
- (a) consider issues and experiences prior to 1950:
 - (b) for the purpose of informing any recommendations made under clause 32A or clause 37A(a), consider issues and experiences after 1999.
- 15B. To avoid doubt, the discretion in clause 15A means the inquiry may hear from people who—
- (a) were in care at any point before 1950:
 - (b) were in care at any point after 1999:
 - (c) are currently in care (whether or not they were also in care before 2000).

- 15C. For the purpose of the inquiry’s engagement with people currently in care, further guidance on principles and methods of work is provided in clauses 21 and 22.
- 15D. Despite the discretion in clause 15A, the inquiry is not permitted to examine or make findings about current care settings and current frameworks to prevent and respond to abuse in care, including current legislation, policy, rules, standards, and practices.
- (6) In the Schedule, after clause 17.8, insert:
- 17.9 **Care settings** means settings in which an individual is in—
- (a) State care (including the settings listed in clause 17.3(c)); or
 - (b) the care of faith-based institutions.
- (7) In the Schedule, revoke clause 19(j).
- (8) In the Schedule, after clause 19, insert:
- 19A. In addition to operating as required by clause 19, the inquiry must operate in a way that, to the extent practicable,—
- (a) avoids taking a legalistic approach;
 - (b) uses less formal procedures in addition to, or as an alternative to, public hearings.
- (9) In the Schedule, replace clause 25 with:
25. In discharging its functions, the inquiry will operate effectively and efficiently and ensure transparency and accountability in its use of public funds.
- 25A. The inquiry must—
- (a) support the relevant department to comply with the department’s administrative and financial planning (relevant to the inquiry) by providing regular information and reporting on administrative and financial matters; and
 - (b) for the purpose of assuring the Minister that the inquiry is on track to deliver the reports and recommendations required under these terms of reference, provide a quarterly report to the Minister that—
 - (i) sets out the critical activities the inquiry needs to complete under these terms of reference; and
 - (ii) reports on—
 - (A) the expected cost of completing the activities; and
 - (B) the expected timing for completing the activities; and
 - (C) the progress towards completing the activities (including in terms of cost); and

**Royal Commission of Inquiry into Historical Abuse in
State Care and in the Care of Faith-based Institutions
Amendment Order 2021**

cl 5

- (iii) explains what steps the inquiry is taking, or proposing to take, to mitigate any risk to completing the activities in accordance with these terms of reference.
- 25B. The inquiry must—
- (a) prepare the form of the quarterly report following consultation with the relevant department; and
 - (b) provide the form to the appropriate Minister for approval by 31 August 2021.
- (10) In the Schedule, replace clause 26 with:
26. The inquiry will map the nature and extent of abuse in State care and faith-based institutions, the impact of that abuse, and the factors that caused or contributed to the abuse. The principal question for this work will be to establish what happened during the relevant period and why.
- (11) In the Schedule, revoke clause 32(a).
- (12) In the Schedule, clause 32(b), replace “processes for redress, rehabilitation, and compensation” with “redress”.
- (13) In the Schedule, after clause 32, insert:
- 32A. The inquiry may make recommendations for changes to be made in the future to ensure that the factors that allowed abuse to occur during the relevant period in State care and in faith-based institutions do not persist.
- (14) In the Schedule, after clause 37, insert:
- 37A. In addition to the two-part interim report referred to in clauses 35 to 37, the inquiry is to provide—
- (a) recommendations on redress processes; and
 - (b) an interim report on redress processes.
- 37B. The inquiry is to present the recommendations on redress processes (*see* clause 37A(a)) in writing to the appropriate Minister by 1 October 2021.
- 37C. The inquiry is to present the interim report on redress processes (*see* clause 37A(b)), which will include the recommendations on redress processes (*see* clause 37A(a)), in writing to the Governor-General by 1 December 2021. The Governor-General will provide the report to the appropriate Minister. As soon as practicable after receiving the report, the Minister will table the report in the House of Representatives. Once tabled, the inquiry may also publish the report on its website.
- 37D. If the recommendations on redress processes included in the interim report on redress processes are not the same as the recommendations presented to the appropriate Minister under clause 37B, the inquiry must ensure that the interim report includes—
- (a) an explanation of the changes made to the recommendations; and

- (b) the reasons for the changes.
- (15) In the Schedule, clause 38, after “clauses 35 to 37,” insert “and the recommendations and interim report referred to in clauses 37A to 37D,”.
- (16) In the Schedule, clause 39,—
- (a) replace “3 January” with “30 June”; and
- (b) replace “the inquiry may also publish the final report on its website” with “the final report may also be published on the inquiry’s website”.
- (17) In the Schedule, revoke clause 40.
- (18) In the Schedule, clause 42, delete “The inquiry may also request amendment of these terms of reference at any time prior to the final reporting date described in clause 39 above. Any request for amendment by the inquiry will be made formally and in writing to the Minister.”

In witness whereof We have caused this Our Commission to be issued and the Seal of New Zealand to be hereunto affixed at Wellington this day
of 2021.

Witness Our Trusty and Well-beloved The Right Honourable Dame Patsy Reddy,
Chancellor and Principal Dame Grand Companion of Our New Zealand Order of
Merit, Principal Companion of Our Service Order, Governor-General and
Commander-in-Chief in and over Our Realm of New Zealand.

Governor-General

By Her Excellency’s Command,

Prime Minister.

Approved in Council,

Clerk of the Executive Council.

**Royal Commission of Inquiry into Historical Abuse in
State Care and in the Care of Faith-based Institutions
Amendment Order 2021**

Issued under the authority of the Legislation Act 2012.

Date of notification in *Gazette*:

This order is administered by the Department of Internal Affairs.